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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/891,197

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Stanley Gene Boyer

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01/31/2006

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EXAMINER

BROOKS, MATTHEW L

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/891,197

Applicant(s)

BOYER ET AL.

Examiner

Matthew L. Brooks

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

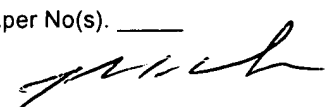
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**JOHN G. WEISS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**

Continuation of 11. does NOT place the application in condition for allowance because: In reply to: the REMARKS/ARGUMENTS submitted on 01/11/06 after Final Rejection written on 10/31/05 and sent on 11/04/05.

With respect to page 2 of 8 bridging to end of first paragraph of pg 3.; wherein Applicant's submit that Examiner's Objections to Figs 5 and 7 are erroneous.

Applicant points to wherein the Specification the figures are discussed as (pg 12, P 41). Failing to mention also discussed in P 43. Examiner has examined many Applications and in all of them the Applicant says see a figure then discusses the figure up until another figure is introduced.

Applicant states Gantt charts do not lend themselves to lead lines (top of pg 3). However Examiner respectfully disagrees. Everyone skilled in the art of scheduling knows that Gantt charts, originally developed by Henry Gantt in 1917 are one of the oldest and still most useful of scheduling tools. Furthermore that a Gantt chart is a graphic display of schedule-related information and in the typical Gantt chart activities are listed down the left side of the chart, and dates/timeline are shown across the top or bottom, and planned activity durations are shown as horizontal bars, placed according to dates. Also it is known that, once major resources reallocations, or major changes are made to the activity schedules, the chart must be reconfigured. Examiner is merely stating the objection to the fact that lead lines would aid in determining the meaning of the submitted figures and where/how the Gantt chart would "... be updated as new information is received-for example, notification a flight is delayed.

Examiner realizes Gantt charts are relatively easy to read and quite accessible to all types of managers and have been used within scheduling of airports for years. However, Examiner also notes that the charts are readily easy to read by managers who are familiar with the actual symbols/gates/flight numbers/ or what ever may be the activity displayed on the chart and also be able to recognize the change to chart, when a flight is delayed. Lead lines and or further illustrations would facilitate the understanding of the invention and are essential for a complete proper understanding of the invention.

With respect to the last full paragraph bridging page 3 and 4. Examiner starts on page 12 P 41, wherein a chart is updated as new info is received, then the following Ps until P 46 are all about Figs 5a and 5b. Now Examiner turns to the 2 figs and sees nothing about UA or 732; and ACTIVITIES on both lefts need to be indicated as flights, gates etc. And maybe true the specification nowhere indicates that the particular example is shown. Exactly why Examiner made the objection in the first place because it should be shown.

With respect to what Examiner indicates, Examiner was merely responding to Applicants Remarks submitted 9/19/05 page 12, last 5 lines wherein "Applicant states the prior art reference does not monitor information stored in a memory for the occurrence of an event, such as shown in Figs 5a and 5b..." again Applicants charts by own admission show no affirmative steps, merely a snap shot of a Gantt chart in one moment in time.

With respect to Applicants attempt to Overcome the 102(e) Rejections beginning on page 5 of 8, last 6 lines of first full P, which is the beginning of Applicant's arguments "Examiner finds that Nelsons..."; Examiner still maintains that the claims are anticipated/taught by Nelson. All Examiner was indicating in the Final Office Action sent on 11/04/05 in Response to Applicant's Arguments submitted 9/15/05 that if Applicant had claimed or recited the use of "push" technology, to use this type of technology in Nelson, would be obvious. Applicant should note that the Newtons Dictionary definition alone would or could be sufficient for purposes of 103.

With respect to 2nd full P on pg 5, Although Examiner has never taken Official Notice of the "push" technology (which is the same as "publish/subscribe" technology), Examiner herein now shows that "push" technology was "instant and unquestionable" as being well known at the time of the invention. To do this Examiner made several steps: 1) Pulled the 17th edition of Newton's Dictionary which was published 1 year before Applicant's filing date, which is attached herein and shows the technology and defines an identical use of technology as claimed by Applicant 2) Looked to Applicant's own specification pg 17, [45] which states using already known "push" technology such as PRISM or TIBCO. 3) Conducted a quick ProQuest search (search and results attached herein) using simple search terms like "push technology" and pull and notification, with a date 1 year before Applicant's filing date and received a lot of results. For Example "'Push' products redefine the Internet" with a publication date of November 25, 1996, well before Applicant's 2001 filing date.

With respect to pg 5, 3rd full P bridging pg 6; Applicant did not mean to misplace an alleged admission, merely looked to Applicants submitted Remarks, pg 9, wherein applicant states "Nelson discloses...". In any event if Applicant looks to what Applicant states Nelson discloses it is still sufficient to show monitoring a database for the occurrence of an event. Nelson teaches a subscriber receives a notification (which again is the same as to publish, see attached Newton's Dictionary definition) of a change in flight (or occurrence of event). Of course a memory is used in the whole process of determining and notifying appropriate subscribers. Which leads to 2nd P, Nelson need not teach the use of "push" technology/ or "publish/subscribe" technology, because it is never recited in the independent claims. Rather Nelson only need teach a "subscriber" and "publish" and it does both. The Newton's Dictionary definition was only brought up in arguendo, that if Applicant had recited the use of the "push" technology, to do so would have been obvious to one of ordinary skill.

With respect to 3rd P, in which Applicant states "...claims clearly indicate that publish/subscribe technology is being employed." Applicant would be better served if Applicant would clearly claim what technology is being employed.

Also note with respect to last line of pg 6, Examiner has never stated that the specification does not fully support the claimed invention, nor has issued a 112 1st.

With respect to pg 7, 1st full P, Examiner is confident it is addressed fully above.

Although discussed above in conjunction with Claim 1, the other independent claims share similar recitations. As such, the rejection of Claims 1, 2, 9, and 10 under 102(e) are not overcome.